IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 84 OF 2000
In
SPECIAL CIVIL APPLICATION NO. 7918 OF 1999
With
CIVIL APPLICATION NO. 1964 OF 2000
In LETTERS PATENT APPEAL NO. 84 OF 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge?

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STATE OF GUJARAT - Appellant(s)

Versus

JANAK B. TRIVEDI - Respondent(s)

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Appearance :
MR. H.M. PRACHCHHAK, AGP for Appellant.
RULE SERVED for Respondent.
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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 24/08/2005

COMMON ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Present is an appeal against the order passed by the

learned single Judge in Special Civil Application No.7918 of 1999 on 12th October, 1999.

2. The facts floating on the surface of the record are that the respondent-workman submitted his claim in the reference and the appellant-State filed its written statement, but, after filing the same, it had chosen to remain absent. After recording the evidence of the respondent-workman, the Labour Court allowed the claim. Instead of filing an application for setting aside the *ex parte* award, the State had come to this Court. The learned single Judge observed that as the claim of the workman was not defended by the State Government, no indulgence can be shown in their favour.

3. Though the learned Counsel for the appellant vehemently contended that the learned single Judge should have seen that the written statement in the matter was filed, but, he was still unable to show any wrong in the award. It is trite law that sufficiency of the cause for restoration of the matter is to be considered by the Court, which had made an *ex parte* order or had dismissed the matter in default.

4. The moment an appeal or a writ is filed against the final outcome, then, the Appellate Court or the High Court would only see that whether the final judgement/award is

based on material and is legal in all respects.

5. In absence of any challenge to the submissions made by and the evidence led by the workman, the Labour Court was absolutely justified in making the award in favour of the respondent-workman. The learned single Judge was also justified in not interfering in the matter. The appeal deserves to and is accordingly dismissed.

6. Civil Application No.1964 of 2000 is consequently dismissed. Rule is discharged. *Ad interim* relief granted earlier shall stand vacated.

[***R.S.Garg, J.***]

[***Ravi R.Tripathi, J.]***

*kamlesh**